

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

VICKY RODRÍGUEZ TORRES, et al.

Plaintiffs

v.

Government Development Bank P.R.,
et al.
Defendants

CIVIL No. 09-01151-JP

TITLE VII AGE & GENDER
DISCRIMINATION, TORTS

TRIAL BY JURY

RULE 59(e) MOTION TO VACATE ORDER, re: DOC.# 237 - DENYING PLAINTIFFS'
[160] MOTION TO COMPEL DISCOVERY; [164] DISCOVERY SANCTIONS

TO THE HONORABLE COURT:

Come now plaintiffs, Vicky Rodríguez Torres, Luis Rafael Maldonado Vaillant, and their conjugal partnership, through the undersigned counsel, and state as follows:

1. On January 20th, 2010, this Honorable Court, through Order as set forth in **Doc.# 237**, denied Plaintiffs' motions to compel discovery and for discovery sanctions (**Doc.# 160; 164**) against co-defendant GDB. See **2010 WL 174156 (D.Puerto Rico)**.

2. In so deciding, and specifically in regards to Plaintiffs' *Request for Production of Documents Number Twelve*, the Court sought support in **Fed. R. Civ. P. 26 (b) (2) (B)**, and determined that the discovery request was "*not reasonably accessible because of undue burden or cost*". See **Id.**, at *3.

3. The Court made its determination without having the benefit of examining **Exhibit 1** – GDB’s Outlook data size, produced by GDB as part of the *Joint Informative Motion*, of November 2nd, 2009 (**Doc.# 198**). Plaintiffs hereby make **Exhibit 1 – GDB’s Outlook data size**, part of the record in the present case.

4. **Exhibit 1** reveals that GDB has readily available, without further burden or cost, 32,074.02 megabytes of relevant e-mail communications and calendar entries, in their native electronic format, together with their original metadata.

5. As observed by the Court, in addressing *The Report*, submitted by Finanxial IT Consulting Services (See *Id.*, at ***3**), GDB without incurring any further costs, is capable making available the 32,074.02 megabytes of relevant e-mail communications and calendar entries, for Finanxial IT Consulting to process.

6. Plaintiffs hereby urge the Court to take notice that the \$35,000.00 cost of processing estimated by Finanxial IT Consulting, starts with the effort expended once the electronic media containing the 32,074.02 megabytes of relevant e-mail communications and calendar entries is in Finanxial IT Consulting’s hands. Consequently, GDB does not claim any cost associated to producing and making available the electronic media containing the 32,074.02 megabytes of relevant e-mail communications and calendar entries.

7. Plaintiffs submit to the Court that Plaintiffs have their own capabilities to process and extract the records of interest from the 32,074.02 megabytes of

relevant e-mail communications and calendar entries, contained in GDB Outlook mailboxes, without further cost, burden or inconvenience on GDB.

8. Plaintiffs further submit to the Court that alternatively, there is a less drastic solution to the wholesale denial of discovery, as set forth in **Doc. 237**, which is, making the Outlook data files available to Plaintiffs, for them to search and process at their own cost.

WHEREBY, for all of the above, Plaintiffs pray this Honorable Court:

Take NOTICE of all of the above;

VACATE Order as set forth in **Doc.# 237**;

ORDER GDB to produce its Outlook data files, as described above.

Respectfully submitted in New York, New York, this 2nd day of January, 2010.

/S/William Meléndez Menéndez
William Meléndez Menéndez
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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that on this same date, we electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel for defendants and all other parties of interest.

/S/William Meléndez Menéndez
William Meléndez Menéndez